

SECOND REGULAR SESSION

# HOUSE BILL NO. 1567

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LUETKENHAUS.

Read 1<sup>st</sup> time January 22, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

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### AN ACT

To repeal sections 375.330, 375.345, and 376.311, RSMo, and to enact in lieu thereof three new sections relating to investments by insurance companies.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 375.330, 375.345, and 376.311, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 375.330, 375.345, and 376.311, to read as follows:

375.330. 1. No insurance company formed under the laws of this state shall be permitted to purchase, hold or convey real estate, excepting for the purpose and in the manner herein set forth, to wit:

(1) Such as shall be necessary for its accommodation in the transaction of its business; provided that before the purchase of real estate for any such purpose, the approval of the director of the department of insurance must be first had and obtained, and in no event shall the [value of such real estate, together with all appurtenances thereto, purchased] **initial investment in such real estate, together with the cost of improvements located or constructed on such real estate, acquired or held** for such purpose:

(a) If a stock company, exceed the amount of its capital stock;

(b) If a fire or casualty company, but not a stock company, exceed sixty percent of its surplus or ten percent of its admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the department of insurance, whichever is the lesser; or

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 (c) If any other type or kind of insurance company, exceed sixty percent of its surplus  
16 or five percent of its admitted assets, as shown by its last annual statement, whichever is the  
17 lesser; or

18 (2) Such as shall have been mortgaged in good faith by way of security for loans  
19 previously contracted, or for moneys due; or

20 (3) Such as shall have been conveyed to it in satisfaction of debts contracted in the  
21 course of its dealings; or

22 (4) Such as shall have been purchased at sales upon the judgments, decrees or mortgages  
23 obtained or made for such debts; or

24 (5) Such as shall be necessary and proper for carrying on its legitimate business under  
25 the provisions of the Urban Redevelopment Corporations Act; or

26 (6) Such as shall have been acquired under the provisions of the Urban Redevelopment  
27 Corporations Act permitting such company to purchase, own, hold or convey real estate; or

28 (7) Such real estate, or any interest therein, as may be acquired or held by it by purchase,  
29 lease or otherwise, as an investment for the production of income, which real estate or interest  
30 therein may thereafter be held, improved, developed, maintained, managed, leased, sold or  
31 conveyed by it as real estate necessary and proper for carrying on its legitimate business; or

32 (8) A reciprocal or interinsurance exchange may, in its own name, purchase, sell,  
33 mortgage, hold, encumber, lease, convey, or otherwise affect the title to real property for the  
34 purposes and objects of the reciprocal or interinsurance exchange. Such deeds, notes, mortgages  
35 or other documents relating to real property may be executed by the attorney in fact of the  
36 reciprocal or interinsurance exchange. This provision shall be retroactive and shall apply to real  
37 estate owned or sold by a reciprocal insurer prior to August 28, 1990.

38 2. The investments acquired under subdivision (7) of subsection 1 of this section may  
39 be in either existing or new business or industrial properties, or for new residential properties or  
40 new housing purposes.

41 3. Provided, no such insurance company shall invest more than ten percent of its  
42 admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed  
43 with the director of the department of insurance of the state of Missouri, in the total amount of  
44 real estate acquired under subdivision (7) of subsection 1, nor more under subdivision (7) of  
45 subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus,  
46 whichever is greater, in any one property, nor more under subdivision (7) of subsection 1 than  
47 one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater,  
48 in total properties leased or rented to any one individual, partnership or corporation.

49 4. It shall not be lawful for any company incorporated as aforesaid to purchase, hold or  
50 convey real estate in any other case or for any other purpose; and all such real estate acquired in

51 payment of a debt, by foreclosure or otherwise, and real estate exchanged therefor, shall be sold  
52 and disposed of within ten years after such company shall have acquired absolute title to the  
53 same, unless the company owning such real estate or interest therein shall elect to hold it  
54 pursuant to subdivision (7) of subsection 1.

55         5. The director of the department of insurance may, for good cause shown, extend the  
56 time for holding such real estate acquired in paying of a debt, by foreclosure or otherwise, and  
57 real estate exchanged therefor, and not held by the company under subdivision (7) of subsection  
58 1, for such period as he may find to be to the best interests of the policyholders of said company.

59         6. If a life insurance company depositing under section 376.170, RSMo, becomes the  
60 owner of real estate pursuant to this section, the company may execute its own deed for the real  
61 estate to the director of the department of insurance, as trustee. The deed may be deposited with  
62 the director as proper security, under and according to the provisions of sections 376.010 to  
63 376.670, RSMo, the value to be subject to the approval of the director.

375.345. 1. As used in this section, the following words and terms mean:

2         (1) ["Call option", an exchange-traded option contract under which the holder has the  
3 right to buy (or to make a cash settlement in lieu thereof) a fixed number of shares of stock, a  
4 fixed amount of an underlying security, or an index of underlying securities at a stated price on  
5 or before a fixed expiration date;

6         (2) "Commodity Futures Trading Commission", the federal regulatory agency charged  
7 and empowered under the Commodity Futures Trading Commission Act of 1974, as amended,  
8 with the regulation of futures trading in commodities;

9         (3) "Financial futures contract", an exchange-traded agreement to make or take delivery  
10 of (or to make cash settlement in lieu thereof) a fixed amount of an underlying security, or an  
11 index of underlying securities, on a specified date or during a specified period of time, or a call  
12 or put option on such an agreement, made through a registered futures commission merchant on  
13 a board of trade which has been designated by the Commodity Futures Trading Commission as  
14 a contract market. Such financial futures contracts shall include the following categories:  
15 United States treasury bills, bonds and notes; securities or pools of securities issued by the  
16 Government National Mortgage Association; bank certificates of deposit; Standard and Poor's  
17 500 Stock Price Index; NYSE Composite Index; KC Value Line Index; and such other  
18 agreements which have been approved by and which are governed by the rules and regulations  
19 of the Commodity Futures Trading Commission and the respective contract markets on which  
20 such financial futures contracts are traded;

21         (4) "Margin", any type of deposit or settlement made or required to be made with a  
22 futures commission merchant, clearinghouse, or safekeeping agent to insure performance of the  
23 terms of the financial futures contract. For the purposes of this section, "margin" includes initial,

24 maintenance and variation margins as such terms are commonly and customarily employed in  
25 the futures industry;

26 (5) "Put option", an exchange-traded option contract under which the holder has the right  
27 to sell (or to make a cash settlement in lieu thereof) a fixed number of shares of stock, fixed  
28 amount of an underlying security, or an index of underlying securities at a stated price on or  
29 before a fixed expiration date;

30 (6) "Securities and Exchange Commission", the federal regulatory agency charged and  
31 empowered under the Securities Exchange Act of 1934, as amended, with the regulation of  
32 trading in securities; and

33 (7) "Underlying security", the security subject to being purchased or sold upon exercise  
34 of a call option or put option, or the security subject to delivery under a financial futures  
35 contract.] **"Admitted assets", assets permitted to be reported as admitted assets on the**  
36 **statutory financial statement of the insurance company most recently required to be filed**  
37 **with the director, but excluding assets of separate accounts, the investments of which are**  
38 **not subject to the provisions of law governing the general investment account of the**  
39 **insurance company;**

40 (2) "Cap", an agreement obligating the seller to make payments to the buyer, with  
41 each payment based on the amount by which a reference price, level, performance, or value  
42 of one or more underlying interests exceeds a predetermined number, sometimes called the  
43 strike rate or strike price;

44 (3) "Collar", an agreement to receive payments as the buyer of an option, cap, or  
45 floor and to make payments as the seller of a different option, cap, or floor;

46 (4) "Counterparty exposure amount":

47 (a) The amount of credit risk attributable to an over-the-counter derivative  
48 instrument. The amount of credit risk equals:

49 a. The market value of the over-the-counter derivative instrument if the liquidation  
50 of the derivative instrument would result in a final cash payment to the insurance  
51 company; or

52 b. Zero if the liquidation of the derivative instrument would not result in a final  
53 cash payment to the insurance company;

54 (b) If over-the-counter derivative instruments are entered into under a written  
55 master agreement which provides for netting of payments owed by the respective parties,  
56 and the domicile of the counterparty is either within the United States or within a foreign  
57 jurisdiction listed in the Purposes and Procedures of the Securities Valuation Office as  
58 eligible for netting, the net amount of credit risk shall be the greater of zero or the net sum  
59 of:

60           a. The market value of the over-the-counter derivative instruments entered into  
61 under the agreement, the liquidation of which would result in a final cash payment to the  
62 insurance company; and

63           b. The market value of the over-the-counter derivative instruments entered into  
64 under the agreement, the liquidation of which would result in a final cash payment by the  
65 insurance company to the business entity;

66           (c) For open transactions, market value shall be determined at the end of the most  
67 recent quarter of the insurance company's fiscal year and shall be reduced by the market  
68 value of acceptable collateral held by the insurance company or placed in escrow by one  
69 or both parties;

70           (5) "Derivative instrument", an agreement, option, instrument, or a series or  
71 combination thereof that makes, takes delivery of, assumes, relinquishes, or makes a cash  
72 settlement in lieu of a specified amount of one or more underlying interests, or that has a  
73 price, performance, value, or cash flow based primarily upon the actual or expected price,  
74 level, performance, value or cash flow of one or more underlying interests. Derivative  
75 instruments also include options, warrants used in a hedging transaction and not attached  
76 to another financial instrument, caps, floors, collars, swaps, forwards, futures and any  
77 other agreements, options or instruments substantially similar thereto, and any other  
78 agreements, options, or instruments permitted under rules or orders promulgated by the  
79 director;

80           (6) "Derivative transaction", a transaction involving the use of one or more  
81 derivative instruments;

82           (7) "Director", the director of the department of insurance of this state;

83           (8) "Floor", an agreement obligating the seller to make payments to the buyer in  
84 which each payment is based on the amount by which a predetermined number, sometimes  
85 called the floor rate or price, exceeds a reference price, level, performance, or value of one  
86 or more underlying interests;

87           (9) "Forward", an agreement other than a future to make or take delivery of, or  
88 effect a cash settlement based on the actual or expected price, level, performance or value  
89 of, one or more underlying interests, but not including spot transactions effected within  
90 customary settlement periods, when issued purchases or other similar cash market  
91 transactions;

92           (10) "Future", an agreement traded on an exchange to make or take delivery of,  
93 or effect a cash settlement based on the actual or expected price, level, performance, or  
94 value of one or more underlying interests and which includes an insurance future;

95           (11) "Hedging transaction", a derivative transaction that is entered into and

96 maintained to reduce:

97 (a) The risk of economic loss due to a change in the value, yield, price, cash flow,  
98 or quantity of assets or liabilities that the insurance company has acquired or incurred or  
99 anticipates acquiring or incurring;

100 (b) The currency exchange rate risk or the degree of exposure as to assets or  
101 liabilities that the insurance company has acquired or incurred or anticipates acquiring  
102 or incurring; or

103 (c) Such other derivative transactions as may be specified to constitute hedging  
104 transactions by rules or orders adopted by the director;

105 (12) "Income generation transaction":

106 (a) A derivative transaction involving the writing of covered call options, covered  
107 put options, covered caps, or covered floors that is intended to generate income or enhance  
108 return; or

109 (b) Such other derivative transactions as may be specified to constitute income  
110 generation transactions in rules or orders adopted by the director;

111 (13) "Initial margin", the amount of cash, securities, or other consideration initially  
112 required to be deposited to establish a futures position;

113 (14) "NAIC", the National Association of Insurance Commissioners;

114 (15) "Option", an agreement giving the buyer the right to buy or receive, sell or  
115 deliver, enter into, extend, terminate, or effect a cash settlement based on the actual or  
116 expected price, level, performance, or value of one or more underlying interests;

117 (16) "Over-the-counter derivative instrument", a derivative instrument entered  
118 into with a business entity other than through an exchange or clearinghouse;

119 (17) "Potential exposure", the amount determined in accordance with the NAIC  
120 Annual Statement Instructions;

121 (18) "Replication transaction", a derivative transaction effected either separately  
122 or in conjunction with cash market investments included in the insurer's investment  
123 portfolio and intended to replicate the investment characteristic of another authorized  
124 transaction, investment, or instrument or to operate as a substitute for cash market  
125 transactions. A derivative transaction that is entered into as a hedging transaction or an  
126 income generation transaction shall not be considered a replication transaction;

127 (19) "SVO", the Securities Valuation Office of the NAIC or any successor office  
128 established by the NAIC;

129 (20) "Swap", an agreement to exchange or to net payments at one or more times  
130 based on the actual or expected price, level, performance, or value of one or more  
131 underlying interests;

(21) "Underlying interest", the assets, liabilities, other interests, or a combination thereof underlying a derivative instrument, such as any one or more securities, currencies, rates, indices, commodities, or derivative instruments;

(22) "Warrant", an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement.

2. [The purchase and sale of put options or call options may take place] An insurance company may, directly or indirectly through an investment subsidiary, engage in derivative transactions pursuant to this section under the following conditions:

(1) [An insurance company may purchase put options or sell call options with regard to underlying securities owned by the insurance company, underlying securities which the insurance company may reasonably expect to obtain through exercise of warrants or conversion rights owned by the insurance company at the time the put option is purchased or the call option is sold, or to reduce the economic risk associated with an insurance company asset or liability, group of such assets or liabilities, or assets, liabilities or groups of assets or liabilities reasonably expected to be acquired or incurred by the insurance company in the normal course of business. Such assets or liabilities must be subject to an economic risk, such as changing interest rates or prices.

(2) An insurance company may sell put options or purchase call options to reduce the economic risk associated with an insurance company asset or liability, group of such assets or liabilities, or assets, liabilities or groups of assets or liabilities reasonably expected to be acquired or incurred by the insurance company in the normal course of business, or to offset obligations and rights of the insurance company under other options held by the insurance company pertaining to the same underlying securities, or index of underlying securities.

(3) An insurance company may purchase or sell put options or call options only on underlying securities, or an index of underlying securities, which are eligible for investment by an insurance company under the laws of the state of Missouri.

(4) An insurance company may purchase or sell put or call options only through an exchange which is registered with the Securities and Exchange Commission as a national securities exchange pursuant to the provisions of the Securities Exchange Act of 1934, as amended.

(5) An insurance company shall not purchase call options or sell put options, if such purchase or sale could result in the acquisition of an amount of underlying securities which, when aggregated with current holdings, exceeds applicable limitations imposed under the laws of the state of Missouri for investment in those particular underlying securities by the type or kind of insurance company involved.

(6) The premiums paid for all option contracts purchased, less the premiums received

168 for all option contracts sold, plus amounts calculated pursuant to subdivision (3) of subsection  
169 3 of this section, shall not at any one time exceed in the aggregate five percent of the insurance  
170 company's admitted assets.

171 3. The purchase and sale of financial futures contracts may take place under the  
172 following conditions:

173 (1) An insurance company may purchase or sell financial futures contracts for the  
174 purpose of hedging against the economic risk associated with an insurance company asset or  
175 liability, group of such assets or liabilities, or assets, liabilities or groups of assets or liabilities  
176 reasonably expected to be acquired or incurred by the insurance company in its normal course  
177 of business. Such assets or liabilities must be subject to an economic risk, such as changing  
178 interest rates or prices.

179 (2) An insurance company shall not purchase or sell financial futures contracts or options  
180 on such contracts, if such purchase or sale could result in the acquisition of an amount of  
181 underlying securities which, when aggregated with current holdings, exceeds applicable  
182 limitations imposed under the laws of the state of Missouri for investment in those particular  
183 underlying securities by the type or kind of insurance company involved.

184 (3) For all purchased or sold financial futures contracts together, plus amounts calculated  
185 pursuant to subdivision (6) of subsection 2 of this section, an insurance company shall not invest  
186 at any one time an aggregate amount of more than five percent of its admitted assets. For the  
187 purposes of transactions in financial futures contracts, such admitted assets limitation shall be  
188 calculated by taking the net asset value of the property used to margin the financial futures  
189 contract positions, plus option premiums paid on financial futures contracts, less option  
190 premiums received on financial futures contracts.

191 **4.] In general:**

192 (a) **An insurance company may use derivative instruments pursuant to this chapter**  
193 **to engage in hedging transactions and certain income generation transactions, as these**  
194 **terms may be further defined in regulations promulgated by the director;**

195 (b) **Upon request, an insurance company shall demonstrate to the director, the**  
196 **intended hedging characteristics and the ongoing effectiveness of the derivative transaction**  
197 **or combination of the transactions through cash flow testing or other appropriate analyses;**

198 (2) **An insurance company shall only maintain its position in any outstanding**  
199 **derivative instrument used as part of a hedging transaction for as long as the hedging**  
200 **transaction continues to be effective;**

201 (3) **An insurance company may enter into hedging transactions if as a result of and**  
202 **after giving effect to the transaction:**

203 (a) **The aggregate statement value of options, caps, floors, and warrants not**



204 attached to another financial instrument purchased and used in hedging transactions does  
205 not exceed seven and one-half percent of its admitted assets;

206 (b) The aggregate statement value of options, caps, and floors written in hedging  
207 transactions does not exceed three percent of its admitted assets; and

208 (c) The aggregate potential exposure of collars, swaps, forwards and futures used  
209 in hedging transactions does not exceed six and one-half percent of its admitted assets;

210 (4) An insurance company may only enter into the following types of income  
211 generation transactions if as a result of and after giving effect to an income generating  
212 transaction, the aggregate statement value of the fixed income assets that are subject to call  
213 or that generate the cash flows for payments under the caps or floors, plus the face value  
214 of fixed income securities underlying a derivative instrument subject to call, plus the  
215 amount of the purchase obligations under the puts, shall not exceed ten percent of its  
216 admitted assets:

217 (a) Sales of covered call options on noncallable fixed income securities, callable  
218 fixed income securities if the option expires by its terms prior to the end of the noncallable  
219 period, or derivative instruments based on fixed income securities;

220 (b) Sales of covered call options on equity securities if the insurance company holds  
221 in its portfolio or can immediately acquire through the exercise of options, warrants, or  
222 conversion rights already owned, the equity securities subject to call during the complete  
223 term of the call option sold;

224 (c) Sales of covered puts on investments that the insurance company is permitted  
225 to acquire under the applicable insurance laws of the state, if the insurance company has  
226 escrowed or entered into a custodian agreement segregating cash or cash equivalents with  
227 a market value equal to the amount of its purchase obligations under the put during the  
228 complete term of the put option sold; or

229 (d) Sales of covered caps or floors if the insurance company holds in its portfolio  
230 the investments generating the cash flow to make the required payments under the caps  
231 or floors during the complete term that the cap or floor is outstanding;

232 (5) An insurance company may use derivative instruments for replication  
233 transactions only after the director promulgates reasonable rules that set forth methods  
234 of disclosure, reserving for risk-based capital, and determining the asset valuation reserve  
235 for these instruments. Any asset being replicated is subject to all the provisions and  
236 limitations on the making thereof specified in chapters 375, 376, and 379, RSMo, with  
237 respect to investments by the insurer as if the transaction constituted a direct investment  
238 by the insurer in the replicated asset;

239 (6) An insurance company shall include all counterparty exposure amounts in

240 **determining compliance with this state's single-entity investment limitations;**

241 **(7) The director may approve, by rule or order, additional transaction conditions**  
242 **involving the use of derivative instruments for other risk management purposes.**

243 **3.** Written investment policies and recordkeeping procedures shall be approved by the  
244 board of directors of the insurance company or by a committee authorized by such board before  
245 the insurance company may engage in the practices and activities authorized by this section.  
246 These policies and procedures must be specific enough to define and control permissible and  
247 suitable investment strategies with regard to [put options, call options, and financial futures  
248 contracts] **derivative transactions** with a view toward the protection of the policyholders. The  
249 minutes of any such committee shall be recorded and regular reports of such committee shall be  
250 submitted to the board of directors.

251 **[5.] 4.** The director [of the department of insurance] may promulgate **reasonable** rules[,  
252 guidelines] and regulations **pursuant to the provisions of chapter 536, RSMo, not**  
253 **inconsistent with this section and any other insurance laws of this state**, establishing  
254 standards and requirements relating to practices and activities authorized in this section,  
255 **including, but not limited to, rules which impose financial solvency standards, valuation**  
256 **standards, and reporting requirements.**

376.311. 1. In addition to the investments permitted by other provisions of the laws, the  
2 capital reserve and surplus of all life insurance companies of whatever kind and character,  
3 organized or doing business pursuant to this chapter, may be invested in an investment pool  
4 meeting the requirements set out below, and any other provision of law relating to investments  
5 made by life insurance companies.

6 2. As used in this section, the following terms mean:

7 (1) "Business entity", a corporation, limited liability company, association, partnership,  
8 joint stock company, joint venture, mutual fund trust, or other similar form of business  
9 organization, including such an entity when organized as a not-for-profit entity;

10 (2) "Qualified bank", a national bank, state bank or trust company that at all times is no  
11 less than adequately capitalized as determined by the standards adopted by the United States  
12 banking regulators and that is either regulated by state banking laws or is a member of the  
13 Federal Reserve System.

14 3. (1) Qualified investment pools shall invest only in investments which an insurer may  
15 acquire pursuant to this chapter and other provisions of law. The insurer's proportionate interest  
16 in these investments may not exceed the applicable limits of this section and other provisions of  
17 law.

18 (2) An insurer shall not acquire an investment in an investment pool pursuant to this  
19 subsection if, after giving effect to the investment, the aggregate amount of investments in all

20 investment pools then held by the insurer would exceed thirty percent of its assets.

21 (3) For an investment in an investment pool to be qualified pursuant to this chapter, the  
22 investment pool shall not:

23 (a) Acquire securities issued, assumed, guaranteed or insured by the insurer or an  
24 affiliate of the insurer;

25 (b) Borrow or incur any indebtedness for borrowed money, except for securities lending  
26 and reverse repurchase transactions;

27 (c) Lend money or other assets to participants in the pool.

28 (4) For an investment pool to be qualified pursuant to this chapter, the manager of the  
29 investment pool shall:

30 (a) Be organized pursuant to the laws of the United States or a state and designated as  
31 the pool manager in a pooling agreement;

32 (b) Be the insurer; an affiliated insurer; **a business entity affiliated with the insurer;**  
33 a qualified bank; a business entity registered pursuant to the Investment Advisors Act of 1940  
34 (15 U.S.C. Sec. 80a-1 et seq.) as amended; or, in the case of a reciprocal insurer or interinsurance  
35 exchange, its attorney-in-fact.

36 (5) The pool manager, or an agent designated by the pool manager, shall compile and  
37 maintain detailed accounting records setting forth:

38 (a) The cash receipts and disbursements reflecting each participant's proportionate  
39 investment in the investment pool;

40 (b) A complete description of all underlying assets of the investment pool including  
41 amount, interest rate, maturity date (if any) and other appropriate designations; and

42 (c) Other records which, on a daily basis, allow third parties to verify each participant's  
43 investments in the investment pool.

44 (6) The pool manager shall maintain the assets of the investment pool in one **or more**  
45 custody [account] **accounts**, in the name of or on behalf of the investment pool, under [a] **one**  
46 **or more** custody [agreement] **agreements** with a qualified bank. [All custodial agreements shall  
47 be filed with the department of insurance for prior approval. The] **Each** custody agreement shall:

48 (a) State and recognize the claims and rights of each participant;

49 (b) Acknowledge that the underlying assets of the investment pool are held solely for the  
50 benefit of each participant in proportion to the aggregate amount of its investments in the  
51 investment pool; and

52 (c) Contain an agreement that the underlying assets of the investment pool shall not be  
53 commingled with the general assets of the qualified bank or any other person.

54 (7) The pooling agreement for each investment pool shall be in writing and shall provide  
55 that:

56 (a) An insurer and its [affiliated insurers] **affiliates** shall, at all times, hold one hundred  
57 percent of the interests in the investment pool;

58 (b) The underlying assets of the investment pool shall not be commingled with the  
59 general assets of the pool manager or any other person;

60 (c) The aggregate amount of each pool participant's interest in the investment pool shall  
61 be in proportion to:

62 a. Each participant's undivided interest in the underlying assets of the investment pool;  
63 and

64 b. The underlying assets of the investment pool held solely for the benefit of each  
65 participant;

66 (d) A participant or, in the event of the participant's insolvency, bankruptcy or  
67 receivership, its trustee, receiver, conservator or other successor-in-interest may withdraw all or  
68 any portion of its investment from the investment pool under the terms of the pooling agreement;

69 (e) Withdrawals may be made on demand without penalty or other assessment on any  
70 business day, but settlement of funds shall occur within a reasonable and customary period  
71 thereafter, provided:

72 a. In the case of publicly traded securities, settlement shall not exceed five business days;  
73 and

74 b. In the case of all other securities and investments, settlement shall not exceed ten  
75 business days.

76 Distributions pursuant to this paragraph shall be calculated in each case net of all then applicable  
77 fees and expenses of the investment pool.

78 (8) The pooling agreement shall provide that the pool manager shall distribute to a  
79 participant, at the discretion of the pool manager:

80 (a) In cash, the then fair market value of the participant's pro rata share of each  
81 underlying asset of the investment pool; or

82 (b) In-kind, a pro rata share of each underlying asset; or

83 (c) In a combination of cash and in-kind distributions, a pro rata share in each underlying  
84 asset;

85 (9) The pool manager shall make the records of the investment pool available for  
86 inspection by the director.

87 4. The pooling agreement and any other arrangements or agreements relating to an  
88 investment pool, and any amendments thereto, shall be submitted to the department of insurance  
89 for prior approval pursuant to section 382.195, RSMo. Individual financial transactions between  
90 the pool and its participants in the ordinary course of the investment pool's operations shall not  
91 be subject to the provisions of section 382.195, RSMo. Investment activities of pools and

92 transactions between pools and participants shall be reported annually in the registration  
93 statement required by section 382.100, RSMo.